

Supplemental Guidance for Emergency Opening (EO) and Permanent Restoration (PR) work on Local Assistance Projects

EO Steps:

1. Disaster occurs and damages are realized;
2. Local Agency, or the County, in which the local agency is located, makes a disaster declaration within **10 days** of the *disaster begin date* in accordance with California Office of Emergency Services (Cal OES);
3. In anticipation of the disaster damages exceeding **\$700,000** to the federal “on-system” roads (e.g. roads classified as Urban Minor Collectors or greater), the Governor or President issuing an official disaster Proclamation, and the Local Agency’s geographical location being specifically included in the Proclamation, the Local Agency will:
 - Take photos of the damage before commencing any restoration or repair work;
 - Begin the NEPA Emergency Opening environmental analysis.

Although the EO work is done “at risk” of a possible ER ineligibility finding later, the premise is that the EO work would still need to be done by the Local Agency. By taking the proactive steps of taking photos and beginning the NEPA process, the local agency is increasing its chances of receiving ER funding should all the prerequisites and requirements be met.

4. Locals contact Caltrans Local Assistance Engineer and Environmental if they anticipate Governor Proclamation;
5. President or Governor issues [Emergency Proclamation](#).¹
6. **Emergency Opening Procedures:**
 - Local Agency prepares *Initial Damage Estimate (IDE)* concurrent with work being performed;
 - District collects IDE to document site locations and rough estimate of cost for repair/restoration of each site. This will help Headquarters Emergency Relief staff document whether or not the disaster event, as a whole, meets the minimum threshold to allow release of ER funding for the disaster.
 - Local agency begins coordination efforts with permitting and regulatory agencies as soon as an Emergency Project is started or identified (prior to or typically within 48 hours of the work occurring). Local agency coordinates with State permitting agencies (i.e. CDFW, RWQCB, etc.);
 - Caltrans Local Assistance Environmental provides emergency notification (via email or phone call) with SHPO, USFWS and/or NMFS as required. Through technical assistance, it will be determined if further analysis is required for Section 106, (i.e. SHPO), and Section 7 Consultation (i.e. USFWS or NMFS).

¹ Typically a lot of the EO work listed below will begin prior to the proclamation. In some cases the proclamation can take upwards of 6 months after the event in which case we need to start conversations with the regulatory agencies much sooner. The idea of waiting for “federal nexus” just is not feasible in many cases if we are to complete NEPA for emergency opening work.

- Local Agency contacts and coordinates with State permitting agencies (i.e. CDFW, RWQCB), and Federal agencies if they anticipate no Caltrans early involvement in EO process.
 - If the project is within ACOE jurisdiction then ACOE may become federal lead at that time.²
 1. Under the above scenario, ACOE will be responsible for emergency notification with USFWS or NMFS (if needed) and SHPO. Section 7 and Section 106 consultation may be warranted as a result of the project if the regulatory agencies want further follow up beyond technical assistance.
 2. If it is determined later that Caltrans will be NEPA lead then Caltrans will resume technical assistance/Section 7 from the ACOE.
7. **Damage Assessment Form (DAF) approved by CT/FHWA**
- DLAE issues federal aid number so that environmental technical studies and CE can be completed (Under EO, after work is completed, a Section 7 bio memo and Section 106 screened undertaking memo will be prepared followed by a Categorical Exclusion Determination. The Categorical Exclusion Checklist, and the Transportation Air Quality Conformity Findings Checklist will also be included as part of the project file).
8. **NEPA Approval (typically during or shortly after work is complete)**
- Local Agency provides Caltrans Local Assistance Environmental with adequate information so that NEPA approval can be completed **within three months** after the work begins at the site for EO. For PR under EO the LA is required to have a signed DAF **within three months** of the initial site inspection.
 - Information for completion of NEPA is required **before** approval of the DAF. This will ensure that NEPA approval will be completed **within three months** of commencement of work.

PR Steps:

Permanent Restoration (PR) work under Emergency Opening Procedures:

In response to severe winter storms that affected California during December 2016 and January 2017, the Federal Highway Administration (FHWA) issued a [letter](#) to Caltrans granting approval for conducting permanent repairs under emergency opening procedures in order to restore federal aid highway facilities. This approval is applicable only to projects resulting from Disaster Events CA 17-1 and CA 17-2, and only to those projects that meet the conditions as described in the letter from FHWA dated March 14, 2017.

In addition to steps 1-8 above, the following outline is provided to assist Caltrans Local Assistance environmental staff in processing projects that meet the criteria for PR under EO work. Projects that do

² This is risky. ACOE priorities differ. Not all projects trigger ACOE involvement, other agencies could be involved (USFWS, NMFS). Highly recommended that the Local agencies work directly with Caltrans if they anticipate that the project will be part of an emergency declaration.

not meet the criteria shall be processed under the regular procedures for Permanent Restoration provided in [LAPG Chapter 11, Emergency Relief](#).

- **PR under EO work must meet specific criteria in March 14, 2017 letter from FHWA;**
- Before PR work begins, Local agency contacts Caltrans Environmental to discuss Permanent Restoration Work.
- Caltrans Local Assistance Environmental works with the District Local Assistance Engineer (DLAE) to confirm that PR work can begin prior to NEPA approval. Caltrans Local Assistance Environmental determines if there are additional avoidance, minimization and or mitigation measures that need to be implemented during the EO work.
- The permanent repairs must occur within the existing right of way, in addition to one of the following conditions being met:
 1. Immediate completion of permanent repairs is the most economical option to restore essential traffic; or
 2. Permanent repairs are the only practical alternative to restore essential traffic when a detour that can safely accommodate essential traffic does not exist.
- The applicable condition must be certified by the full-time public employee accountable for the project (“responsible charge”); that is, a Local Public Agency employee on local roadways. This determination, along with all applicable supporting documentation, must be signed by the responsible charge employee and be included with the Damage Assessment Form (DAF). Submittal of the DAF is not necessary prior to the start of work; however, for Federal-aid ER consideration it must be submitted **no later than three months** after the initial site inspection date.
- **No PES form** required for EO and PR work completed using EO procedures.
- Caltrans Local Assistance Environmental requires a memo to file from the Local Agency explaining the history at the location, scope, and site location information along with photos.

Environmental Process for Normal Permanent Restoration Work:

1. Permanent Restoration (PR) Work:

- Description is included under the PR section of the DAF.
- Requires a completed and signed PES form and is processed as a regular federal-aid local assistance project. ***Note** that ER Projects (except those involving substantial functional, location or capacity changes) are not required to be included in an approved FSTIP, therefore FSTIP information is not required on the PES form. This should be noted on the PES form.

2. Environmental Approval:

- When Local Agency submits all the required environmental documentation per the PES form, Caltrans will sign the appropriate NEPA Determination (CE, FONSI, or ROD).

- Local Agency may not proceed with the final design of a project or request “Authorization to Proceed with Right of Way or Construction” until NEPA process has been completed.

Uniform File System:

- A copy of the signed DAF should be in the environmental project file. Environmental staff should check to make sure the work described on the DAF (for both EO and PR) is consistent with the work described in the applicable environmental determination or document.
- For projects processed with a NEPA CE under 23 CFR 771.117(c)(9), be sure to check the appropriate box on the CE Checklist and include a copy of the signed emergency declaration in the file. The other option for ER work is Activity 4 listed in Appendix A of the CE Assignment MOU. The emergency declaration is not required for Activity 4 in Appendix A.

For questions or additional information please contact Bob Baca at (916) 653-9151 or Bob.Baca@dot.ca.gov.

Additional Resources:

Please refer to the following resources for additional or more detailed information regarding the Emergency Relief Program and Environmental Procedures:

- Local Assistance Program Guidelines, Chapter 11 – Emergency Relief Program:
<http://www.dot.ca.gov/hq/LocalPrograms/lpp/2010-13/lpp11-04.pdf>
- Standard Environmental Reference, Emergency Projects – Environmental Process and Requirements:
http://www.dot.ca.gov/ser/downloads/general/Emergency_Projects.pdf
- March 14, 2017 letter from FHWA: Emergency Relief (ER) Program – Statewide Approval of Permanent Repairs under Caltrans’ Emergency Opening (EO) Procedures:
<http://www.dot.ca.gov/hq/LocalPrograms/erp/2017/PR%20in%20EO%20-%20Prog%20Approval.pdf>
- Governor Brown’s Declares State of Emergency Requests, Presidential Major Disaster Declaration Due to Recent Storms, March 7, 2017: <https://www.gov.ca.gov/news.php?id=19707>